

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

No. 16-CR-826-LTS

DENNIS POMALES,

Defendant.

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ORDER

The Court has received Defendant Dennis Pomales's supplemental letter docketed August 14, 2020 (Docket Entry No. 508), in further support of his motion for compassionate release (Docket Entry No. 496), which the Court denied by Order dated August 12, 2020. (Docket Entry No. 504.)¹ In that Order, the Court noted that Mr. Pomales had not been prescribed immunosuppressant medication for his psoriasis, which was a factor in the Court's determination that he had not carried his burden to show that his medical conditions constituted "extraordinary and compelling reasons" justifying a reduction in his sentence. (*Id.* at 5.)

Mr. Pomales's supplemental letter reports that one of the topical creams with which he treats his psoriasis (Betamethasone Dipropionate) "has immunosuppressive effects." However, the prescription label for Betamethasone Dipropionate, which Mr. Pomales attaches to his letter, states merely that "[i]n pharmacologic doses corticosteroids are used primarily for their anti-inflammatory and/or immunosuppressive effects." It does not state that topical application of Betamethasone Dipropionate has a measurable effect on the immune system of the person applying it. Moreover, the Court has located only one decision addressing the

¹ The Court assumes the parties' familiarity with the Court's August 12, 2020 Order.

immunosuppressant effects of the topical application of Betamethasone in the context of a motion for compassionate release, which explained:

It is notable that defendant is prescribed Betamethasone, an immunosuppressant, for his psoriasis in the form of a topical cream for use on his scalp and in his beard. (Doc. 45–2, at 3, 45 68, 181). Some courts have found “severe forms of psoriasis requiring immunosuppressive therapies” may put an inmate at greater risk because such immunosuppressants lower the body’s ability to combat infections. United States v. Robinson, No. 18-cr-00597-RS-1, 2020 WL 1982872, at *2 (N.D. Cal. Apr. 27, 2020) (noting psoriasis alone is generally not a risk factor but that the defendant’s psoriasis was so severe that he was a mortality risk even before the COVID-19 pandemic arose); see also United States v. Chappell, No. 16-CR-512-LTS, 2020 WL 3415229, at *1 (S.D.N.Y. June 22, 2020) (noting the defendant was being treated for “advanced psoriasis” with immunosuppressive therapies). The record never describes defendant’s psoriasis as severe or advanced, but it does note he uses Betamethasone and another steroid cream in small amounts and a special shampoo for it. (Id., at 119, 181–82). Although these treatments are significant, they are only topical. Because he is not using Betamethasone orally or intravenously, it appears it would have little to no impact on his immune system. See If You Are Immunocompromised, Protect Yourself from COVID-19, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/needextraprecautions/immuno-compromised.html> (noting corticosteroids and immunosuppressants inhibit the body’s immune system when used orally or intravenously); Conforti, et al., COVID-19 and Psoriasis: Is It Time to Limit Treatment with Immunosuppressants? A Call for Action, Dermatology Therapy, <https://onlinelibrary.wiley.com/doi/full/10.1111/dth.13298> (March 2020) (suggesting “topical and/or drugs with a lower impact on the immune system” should be preferred over immunosuppressant drugs amid the pandemic). Thus, the Court notes these conditions and treatments but affords them little weight.

United States v. Kantaris, No. 16-CR-3024 (CJW) (MAR), 2020 WL 3513702, at *4 (N.D. Iowa June 29, 2020) (denying motion for compassionate release).

Therefore, for the reasons stated above, in Kantaris, and in the Court's Order dated August 12, 2020, the Court adheres to its decision denying Mr. Pomales's motion for compassionate release.

SO ORDERED.

Dated: New York, New York
August 14, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge

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